

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
APPENDIX**



75-1114

To be argued by  
HARRY BLUM

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P/S

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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UNITED STATES OF AMERICA,

Appellee,

-against-

GARY SINGLETON, WILLIAM M. KIRBY,  
and WILLIAM ELMORE,

Docket No. 75-1114

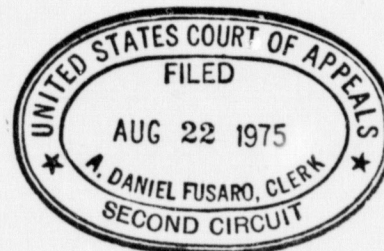
Appellants.  
-----x

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APPENDIX FOR APPELLANT  
WILLIAM M. KIRBY  
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ON APPEAL FROM A JUDGMENT  
OF THE UNITED STATES DISTRICT  
COURT FOR THE EASTERN DISTRICT  
OF NEW YORK

HARRY BLUM  
130 Clinton Street  
Brooklyn, New York

Attorney for Appellant  
William M. Kirby



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UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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Attorney for Appellant  
William M. Kirby

APPENDIX A

Mr. Appelby: Would you please look at Government 1A, 1B and 1C, Mr. Attmore.

The Court: No, you're not doing it right.  
Wait a minute, Mr. Attmore. You went to Mr. Sheerin's office right?

The Witness: Yes.

The Court: On that day was there a Mr. O'Neil there?

The Witness: Yes he was?

The Court: And what did he say to you?

The Witness: He said he wanted me to try and make a positive identification of the people who were supposed to have---

The Court: Now than he showed you those photographs?

The Witness: Yes

The Court: And what did he say to you?

The Witness: He asked would I try and point them out?

The Court: Did he point out anyone? Did he put his finger on anyone?

The Witness: No your honor.

The Court: He just said pick out?

The Witness: He asked me to do it.

The Court: Did he---

The Witness: He asked me if I could.

The Court: He didn't say anything?

The Witness: He said to me, "Try to point them out."

The Court: Did he tell you they were in there?

The Witness: No Sir. He said try to point them out if you can.



1 The Court: If they're in there?

2 The Witness: Yes.

3 The Court: He put them down all at once?

4 The Witness: He put the spread down.

5 The Court: Did you look at them carefully, all of them?

6 The Witness: Yes I did.

7 The Court: How long did it take you before you made---  
8 picked out anyone?

9 The Witness: Approximately 15 seconds.

10 The Court: Approximately 15 seconds, then you began to  
pick out one or two, is that right?

11 The Witness: Yes, your Honor.

12 The Court: All right, you go ahead.

13 BY MR. APPELBY

14 Q. When you pointed out these photographs, Mr.  
15 Attmore, did you do anything after you pointed them out?

16 The Court: The one's you picked out, how many did you  
pick out?

17 The Witness: I picked out two.

18 The Court: All right on those two did you put your initials  
19 on the back of them?

20 The Witness: Yes I did.

21 The Court: All right. Now, let him pick out the two again  
without looking.

22 Q. Would you point out the photographs that you  
23 pointed out on June 25th? Incidentally, Mr. Attmore, would  
you please arrange the photographs exactly as they appeared  
24 to you on June 25th 1974? How did they appear before you?

25 A. They were---

26 The Court: I see in three series side by side.  
27  
28

1 The Witness: It was spread out in this manner.  
2 Q. In a line?  
3 The Court: Does six on ten look like ten on the other, does it?  
4 The Witness: There is four ten on this one, six on the  
5 other, on six on this one. (SIC)  
6 The Court: Six on each side and ten in the middle, right?  
7 The Witness: Yes your Honor.  
8 The Court: So, all right. Twenty-two photographs there  
right?  
9 The Witness: Yes, your Honor.  
10 The Court: And out of those you picked out two, right?  
11 The Witness: I picked out two.  
12 The Court: Can you pick two out today?  
13 The Witness: Yes, your Honor.  
14 The Court: Well, pick them out.  
15 The Witness: This one.  
16 The Court: See if you have an initial on that.  
17 The Witness: Yes, your Honor.  
18 The Court: You've got the initialling in front, I see. So you  
19 already had your initials on so you didn't pick them out today.  
Is that your initial?  
20 The Witness: Yes, your Honor, that's it.  
21 Q. What number is that, Mr. Attmore?  
22 A. Eighteen  
23 Q. Did you pick out anybody else?  
24 A. Yes.  
25 The Court: Now when you picked them out there was no initialing  
26 on there, nothing on there?  
27 The Witness: No, your Honor.  
28 The Court: What's the other number you picked out?



1 THE WITNESS: I picked out number six.

2 THE COURT: When you picked them out, were you asked to put  
3 your initials on them at the time?

4 THE WITNESS: Yes, your Honor.

5 THE COURT: And their initials are on there?

6 THE WITNESS: Yes, your Honor.

7 MR. APPELBY: Your Honor, I move the Government 1A, 1B, and 1C  
8 in evidence.

9 THE COURT: Wait a minute. Are those men here today? Do  
10 you see them?

11 THE WITNESS: Yes, Your Honor.

12 THE COURT: Which one did you pick out first? Which is the  
13 first one?

14 THE WITNESS: Am I allowed to point?

15 THE COURT: Yes, sir, which is number six, what's his name  
16 on number six?

17 THE WITNESS: The names I don't know.

18 THE COURT: Well, point out number six. Sit down Mr. Clerk.  
19 These men are--

20 THE WITNESS: Am I allowed to stand up?

21 THE COURT: You can stand up. They can stand up too.

22 MR. KEELY: Doesn't he come over and place his hands--

23 THE COURT: No, I don't think he wants to do that. You  
24 can stand up.

25 THE WITNESS: Thank You. If you don't mind the young man  
26 in the colorful coat.

27 THE COURT: The colorful one, do you mean the purple?

28 THE WITNESS: With the colorful coat there.

THE COURT: Brown. With an Afro.

THE WITNESS: Afro.

THE COURT: Who's he, that's number six.



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THE WITNESS: This is number six.

THE COURT: Will you stand up?

MR. APPLEBY: Identifying the defendant Kirby.

THE COURT: Allright, sit down, Mr. Kirby. What's the next one?

THE WITNESS: The other young man in the overall jacket.

THE COURT: Right next to him. Stand up. What number is he, number 18?

THE WITNESS: He's number 18.

THE COURT: What's his name?

MR. APPLEBY: Defendant Singleton, your Honor.

THE COURT: Thank you very much, Mr. Singleton.

MR. APPLEBY: No further questions.

THE COURT: Allright.

APPENDIX

Testimony from page 66

1 Cross-Attmore

2 The Court: And this other car was parallel?

3 The Witness: Paralell and so close that you couldn't walk  
4 between the two.

5 The Court: Gee, so close? (indicating)

6 Testmony from page 110  
7 Brief page 4

8 Attmore-Direct

9 The Court: You had better step foward. Can you see him,  
10 which one was in the driver's seat?

11 The Witness: The young man in the overall type outfit.

12 Testimony from page 111  
13 Brief page 4

14 Attmore-Direct

15 The Court: Did you see the passanger at the same time  
16 Mr. Attmore?

17 The Witness: Yes your Honor.

18 The Court: Who is he?

19 The Witness: The young man seated there (indicating).

20 The Court: W ould you stand up Mr. Kirby? Is this the man?

21 The Witness: Yes, your Honor.

22 Testimony from page 114  
23 Brief page 4

24 Attmore-Direct

25 Q. (From Mr. Appelby) Did you notice how tall he was and  
26 how much he wieghed?

27 A. (From Mr. Attmore) Yes, I made a mental observation.  
28 I would say he wieghed in between 175-180 pounds and that  
his wieght was about 5'10 or 11.



1 Testmony from page 107-108  
2 Brief page 5

3 Direct-Attmore

4 The Witness: And I completed the route which was the second  
5 loop.

6 Q. What did you do at this point where your pointer  
7 is pointing at?

8 A. At this point I made it my business to---

9 Q. Did you go to a specific house at this point?

10 A. Yes, there is a house with a very large yard  
11 which would afford me a good vantage point because the fence  
12 is a low type fence---

13 Testimony from page 114  
14 Brief page 5

15 Direct Attmore

16 Q. Then what did you do?

17 A. Well, I continued north on 146th Street and  
18 completed my loop, which brought me back to my jeep, the  
19 rear of my jeep in this case.

20 Q. How long did it take you to return to the rear  
21 of your jeep?

22 A. About four minutes.

23 Testimony from pafe 116  
24 Brief page 5

25 Direct-Attmore

26 Q. Do you recall what the license plate number is?

27 A. Yes, I do

28 Q. What is it?

336 QFZ

1 Testmony from page 126  
2 Brief page 5

3 Attmore-Direct

4 Q. Did there come a time when you returned to your jeep  
5 after completing this loop?

6 A. Yes.

7 Q. And when you returned did you see the Ford Falcon?

8 A. It was no longer in sight.

9 Testimony from page 133-134  
10 Brief page 5

11 Attmore-Direct

12 Q. Can you tell us approximately what time you made the  
13 call?

14 A. I knew the exact time.

15 Q. How did you know that?

16 A. The first thing I did was look on the clock on the wall.

17 Q. What time was it..

18 A. 12:40

19 Q. Without telling us what Mr. Carter said to you, what  
20 did you say to him?

21 A. I reported that the jeep had been broken into; told him  
22 of the missing mail and of the mail that I had left and  
23 asked him if he would please make this report to the Postal  
24 Inspector and told him where he might be able to find me.

25 Testimony from page 135  
26 Brief page 5

27 Attmore-Direct

28 Q. Did you give him any information?

A. Yes. I gave the information that I had written down  
concerning the vehicle which was located paralell to my  
jeep and I made an observation.



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Q. Would you tell us what that observation was?

A. The observation was this: as I went to give him the information I noticed on his clipboard that he had the same license plate number already written down.

Testimony from page 285  
Rinzulli-Direct:

Q. Without telling us what inspection Shovlin said, based upon Inspector O'Niel's conversation with him, what did you do?

A. We then proceeded to the vicinity of 120th Avenue and Sutphin Blvd.

The Court: 120th Avenue?

The Witness: Yes sir.

The Court: All right.

Testimony from page 294  
Brief page 6

Rinzulli-Direct

Q. How did you identify yourselves?

A. I states, Federal Police Officers, Postal Inspectors, and order the individuals out of the car.

Q. Where was Inspector O'Niel when you were doing this?

A. Inspector O'Niel was just getting out his drivers side of the vehicle.

Q. Had he actually gotten out of the car at that point?

A. I really don't remember.

Q. Where was Inspector Cole at this point?

A. Inspector Cole was standing right next to me.

Q. What was he doing?



1 A. He was standing on my left, assisting me in getting  
2 the two individuals out of the vehicle.

3 The Court: Assisting you do what?

4 The Witness: Getting the two individuals out of the vehicle.

5 The Court: What do you mean by that?

6 The Witness: I mean he was there lending his assistance  
7 if it was necessary.

8 The Court: Didn't they get out?

9 The Witness: They came out, yes, your Honor.

10 Testimony from page 297

11 Brief page 6

12 Rinzulli-Direct

13 Q. After you brought these individuals to the side of  
14 the building did you tell the anything?

15 A. As I was patting down these individuals for weapons, I  
16 already advised both of them of their Constitutional rights or  
17 what is commonly known as Miranda warnings.

18 Testimony from page 302

19 Brief page 6

20 Rinzulli-Direct

21 Q. Inspector Rinzull, can you identify Government's Exhibit  
22 number 7 for identification?

23 The Court: Is that the jacket that came flying out, as you  
24 say, the side of the car, and landed on the sidewalk?

25 The Witness: Yes sir, it is.

26 Testimony from page 314

27 Brief page 6

28 Rinzulli-Direct

Q. Did there come a time when you escorted the defendants  
back to the Postal Inspectors Office?

APPENDIX B

MR. MALTZ: May I have your permission to resume a short cross examination?

THE COURT: We have to stop sometime.

MR. MALTZ: We have three defendants.

THE COURT: We have already spent quite a bit of time.

MR. MALTZ: With all due respect your Honor this is cross-examination.

THE COURT: You are not going to expend this entire afternoon.

MR. MALTZ: No, I am not, I promise.

THE COURT: You had better get that straight.

MR. MALTZ: However, after discussion with my colleagues we would like to perhaps find areas of mutuality.

THE COURT: Mr. Kelly will be here.

MR. MALTZ: He may not necessarily be in the same realm.

THE COURT: You can do it now can't you?

MR. MALTZ: I am not sure. I would like to discuss it with my colleagues if I may.

THE COURT: Talk to them now. I will stay here, and the jury will stay here. You can go out in the hall. Time is of the essence here. We cannot prolong this in this way. Go out in the hall with Mr. Bloom and Mr. Kelly.

(Mr. Bloom, Mr. Maltz, and Mr. Kelly retired from the courtroom)



1 A. Yes.  
2 Q. Where is this?  
3 A. In Jamaica.  
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APPENDIX C

Testimony from page 319

Rinzulli-Direct

The Court: You have the same point over and over again,  
and you will get the same ruling over and over again.  
I don't understand why you persist and take time.  
The same with your cross examination, you don't take no  
for an answer.



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